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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,409	01/18/2005	Paul Soenen	016782-0321	7024

22428 7590 11/14/2007
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EXAMINER	
HURLEY, SHAUN R	
ART UNIT	**PAPER NUMBER**
3765	

MAIL DATE	DELIVERY MODE
11/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/521,409	SOENEN ET AL.	
	Examiner	Art Unit	
	Shaun R. Hurley	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17,19-21 and 23-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17,19-21 and 23-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 27 August 2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-17, 19, 26-29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiessens (3908715).

Spiessens teaches a metal cord for use in a tire comprising at least two metal strands, at least one metal strand comprising at least two filaments (Abstract; Figures), wherein at least one filament having a diameter of less than 0.35 mm (Column 2, lines 5-12) is interrupted to provide at least one filament end, wherein the one filament end is fixed to a second filament of the strand so as to provide a force of rupture of more than 50% of the elongation at rupture of the unfixed section (Column 1, lines 46-55 teaches that such has already been known and tried in the art). While Spiessens essentially teaches the invention as detailed, he teaches fixing the filament end by welding. It would have been obvious, however, to one of ordinary skill in the art at the time

the invention was made, to have utilized a polymer glue or soldering substance, so as to remove the need for extreme temperatures. Welding involves the melting of the two filaments so as to affix to one another. By utilizing a well-known solder, or a polymer glue, the same affixation could occur at the filament end and length with temperatures less than 700 degrees C. The ordinarily skilled artisan would have appreciated these benefits and known to fix the filaments to one another in such a manner. In regards to the use of steel, such is well known in the art.

4. Claims 21 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiessens in view of Bruyneel et al (5784874).

Spiessens essentially teaches the invention as discussed above, but fails to specifically teach the use of a metal cord in a rubber timing belt, which Bruyneel teaches (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used the cord in a timing belt as taught, so as to create a structure of increased strength. Timing belts are well known, and the ordinarily skilled artisan would have appreciated the benefits provided and known to use the capable cord, so as to provide necessary strength to the belt structure.

5. Claims 20, 23-25, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiessens in view of Coleman et al (4724929)

Spiessens essentially teaches the invention as discussed above, but fails to specifically teach the use of a metal cord in an elevator belt capable of hoisting, controlling, and suspending, which Coleman teaches (Abstract, Figure 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used the cord in an elevator belt as taught, so as to create a structure of increased strength. Elevator belts are well known, and the ordinarily

skilled artisan would have appreciated the benefits provided and known to use the capable cord, so as to provide necessary strength to the belt structure.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 5-17, and 19-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 10/514420. Although the conflicting claims are not identical, they are not patentably distinct from each other because each teaches a metal cord having at least one strand affixed with similarly expected strength requirements.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huang (20060156534), Brown et al (6381939), Thomson (4191009), and Black (3934397) all teach what is well known in the art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R. Hurley whose telephone number is (571) 272-4986. The examiner can normally be reached on Mon - Fri, 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shaun R Hurley/
Shaun R Hurley
Primary Examiner
Art Unit 3765

SRH
12 November 2007